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New York, New York 10017  
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David S. Pegno (DP-7428)  
*Attorneys for Claimant David J. Brooks*

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re:

LEHMAN BROTHERS HOLDINGS INC., *et al.*,  
  
Debtors.

Chapter 11

Case No. 08-13555 (JMP)

(Jointly Administered)

**DECLARATION OF DAVID J. BROOKS IN RESPONSE TO DEBTORS' FORTIETH  
OMNIBUS OBJECTION TO CLAIMS (LATE-FILED CLAIMS)**

I, DAVID J. BROOKS, declare under penalty of perjury that the following is true and correct to the best of my knowledge, information and belief:

1. I make this declaration in response to Debtor's Fortieth Omnibus Objection to Claims, in which the Debtor objection to my proof of claim on the grounds that it was filed one day late.

2. I worked at Lehman Brothers for 23 years, from when I graduated college in 1985 until it filed this bankruptcy case in 2008. I received notice of the September 22, 2009 bar date for filing proofs of claim in these Chapter 11 cases, and decided to file a proof of claim for deferred compensation that was due to me from Lehman. Accordingly, on September 18, 2009, I prepared and signed my proof of claim in the amount of \$259,911. (Exhibit A). It is likewise my recollection that that same day I deposited my proof of claim in the internal mail system at Barclays Capital, my present employer, at 745 Seventh Avenue, New York, New York, for

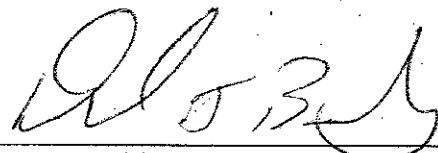
delivery via the United States Mail to Epiq Bankruptcy Solutions, LLC at FDR Station, New York, New York. I had previously deposited mail with Barclays Capital (and indeed with Lehman, which occupied the same offices) and had never had any difficulties with the timeliness of the delivery of mail when I did so. It never occurred to me that there would be any difficulty in the delivery of the document, since the addressee is literally blocks away from my office.

3. For reasons unknown to me, my proof of claim was apparently either not delivered immediately to the United States Mail, or not processed immediately by the United States Mail. Instead, it was postmarked September 22, 2009. (Exhibit B). It was received the very next day, September 23, 2009. (Exhibit C).

4. Many months later, I received notice that Debtor included my claim in its Fortieth Omnibus Objection on the grounds that it was untimely by one day.

5. For the reasons set forth above and in the accompanying objection by my attorneys, I respectfully object to the disallowance and expungement of my claim due to reasonable reliance upon the postal service for delivery of my proof of claim on or before the bar date, and request the Court accept the filing.

Dated: New York, New York  
October 14, 2010

  
\_\_\_\_\_  
David. J. Brooks



<b>United States Bankruptcy Court/Southern District of New York</b> Lehman Brothers Holdings Claims Processing Center c/o Epiq Bankruptcy Solutions, LLC FDR Station, P.O. Box 5076 New York, NY 10150-5076		<h2 style="margin: 0;">PROOF OF CLAIM</h2>	
In Re: Lehman Brothers Holdings Inc., et al. Debtors.	Chapter 11 Case No. 08-13555 (JMP) (Jointly Administered)	UNIQUE IDENTIFICATION NUMBER: 1000185414  Filed: USBC - Southern District of New York Lehman Brothers Holdings Inc., Et Al. 08-13555 (JMP) 0000034559	
Name of Debtor Against Which Claim is Held		Case No. of Debtor	
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503. Additionally, this form should not be used to make a claim for Lehman Programs Securities (See definition on reverse side.)			
Name and address of Creditor: (and name and address where notices should be sent if different from Creditor)  LBH (CREDITOR,DBF,CREDNUM)CREDNUM # 1000185414***** BROOKS, DAVID J 22 BARTLETT DR MANHASSET, NY 11030-2121		<input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.  <b>Court Claim Number:</b> _____ (If known)  <b>Filed on:</b> _____	
Telephone number: _____ Email Address: _____		<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.  <input type="checkbox"/> Check this box if you are the debtor or trustee in this case.	
Name and address where payment should be sent (if different from above)  Telephone number: _____ Email Address: _____			
<b>1. Amount of Claim as of Date Case Filed: \$</b> <u>259,911</u> If all or part of your claim is secured, complete Item 4 below; however, if all of your claim is unsecured, do not complete item 4. If all or part of your claim is entitled to priority, complete Item 5. If all or part of your claim qualifies as an Administrative Expense under 11 U.S.C. §503(b)(9), complete Item 6. <input type="checkbox"/> Check this box if all or part of your claim is based on a Derivative Contract.* <input type="checkbox"/> Check this box if all or part of your claim is based on a Guarantee.* <b>*IF YOUR CLAIM IS BASED ON AMOUNTS OWED PURSUANT TO EITHER A DERIVATIVE CONTRACT OR A GUARANTEE OF A DEBTOR, YOU MUST ALSO LOG ON TO <a href="http://www.lehman-claims.com">http://www.lehman-claims.com</a> AND FOLLOW THE DIRECTIONS TO COMPLETE THE APPLICABLE QUESTIONNAIRE AND UPLOAD SUPPORTING DOCUMENTATION OR YOUR CLAIM WILL BE DISALLOWED.</b> <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of interest or additional charges. Attach itemized statement of interest or charges to this form or on <a href="http://www.lehman-claims.com">http://www.lehman-claims.com</a> if claim is based on a Derivative Contract or Guarantee.		<b>5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a).</b> If any portion of your claim falls in one of the following categories, check the box and state the amount.  Specify the priority of the claim:  <input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). <input type="checkbox"/> Wages, salaries or commissions (up to \$10,950), earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(4). <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(5). <input type="checkbox"/> Up to \$2,425 of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(7). <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8). <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(____).  <b>Amount entitled to priority:</b> \$ _____	
<b>2. Basis for Claim:</b> <u>Defendant Compensation</u> (See instruction #2 on reverse side.)		<b>FOR COURT USE ONLY</b>  <div style="border: 2px solid black; padding: 10px; text-align: center;"> <b>FILED / RECEIVED</b>   <b>SEP 23 2009</b>   <b>EPIQ BANKRUPTCY SOLUTIONS, LLC</b> </div>	
<b>3. Last four digits of any number by which creditor identifies debtor:</b> <u>7099</u> <b>3a. Debtor may have scheduled account as:</b> _____ (See instruction #3a on reverse side.)			
<b>4. Secured Claim</b> (See instruction #4 on reverse side.) Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information. Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: _____ Value of Property: \$ _____ Annual Interest Rate _____ % Amount of arrearage and other charges as of time case filed included in secured claim, if any: \$ _____ Basis for perfection: _____ <b>Amount of Secured Claim: \$</b> _____ <b>Amount Unsecured: \$</b> _____			
<b>6. Amount of Claim that qualifies as an Administrative Expense under 11 U.S.C. §503(b)(9):</b> \$ _____ (See instruction #6 on reverse side.)			
<b>7. Credits:</b> The amount of all payments on this claim has been credited for the purpose of making this proof of claim. <b>8. Documents:</b> Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages and security agreements. Attach redacted copies of documents providing evidence of perfection of a security interest. (See definition of "redacted" on reverse side.) If the documents are voluminous, attach a summary. <b>DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.</b> If the documents are not available, please explain:			
Date: <u>9/10/09</u>	<b>Signature:</b> The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any. 		

Deferred equity stock compensation never received  
Subject: Deferred equity stock compensation never received

07/01/2008	July 2008 RSU	\$20.9600	\$7,834	11/30/2011
12/07/2007	2007 SVP Principal	\$47.6000	\$29,379	11/30/2012
12/07/2007	2007 SVP Discount	\$47.6000	\$9,793	11/30/2012
12/08/2006	2006 SVP Principal	\$57.7700	\$53,906	11/30/2011
12/08/2006	2006 SVP Discount	\$57.7700	\$17,969	11/30/2011
11/30/2005	2005 SVP Principal	\$47.2500	\$46,876	11/30/2010
11/30/2005	2005 SVP Discount	\$47.2500	\$15,625	11/30/2010
12/09/2004	2004 SVP Principal	\$32.1750	\$28,306	11/30/2009
12/09/2004	2004 SVP Discount	\$32.1750	\$9,435	11/30/2009
12/10/2003	2003 SVP Principal	\$26.7700	\$30,591	11/30/2008
12/10/2003	2003 SVP Discount	\$26.7700	\$10,197	11/30/2008

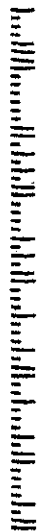
Total			\$259,911	
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Brooks  
BARCLAYS  
CAPITAL  
745 2ND AVE  
2ND FLOOR  
NY NY 10018

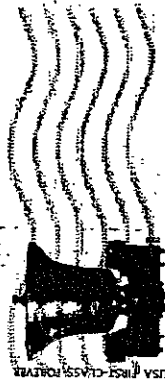
Lehman Brothers Holdings Corp  
c/o Eqg Brokerage Solutions  
FOR STATION, P.O. BOX 5076  
NY NY 10156-5076

1015045076



NEW YORK NY 100  
22 SEP 2009 PM 12 L

RECEIVED





UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re

LEHMAN BROTHERS HOLDINGS INC., *et al.*,

Debtors.

Chapter 11 Case No.

08-13555 (JMP)

(Jointly Administered)

LBH OMNI40 09-13-2010 (MERGE2,TXNUM2) 4000081365 MAIL ID \*\*\* 0033298163 \*\*\* BSTUSE: 338

BROOKS, DAVID J  
22 BARTLETT DR  
MANHASSET, NY 11030-2121

**THIS IS A NOTICE REGARDING YOUR CLAIM(S). YOU MUST READ IT  
AND TAKE ACTION IF YOU DISAGREE WITH THE OBJECTION.**

**IF YOU HAVE ANY QUESTIONS ABOUT THIS NOTICE OR THE OBJECTION,  
PLEASE CONTACT DEBTORS' COUNSEL, JOHN O'CONNOR, ESQ., AT 214-746-7700.**

**NOTICE OF HEARING ON DEBTORS' FORTIETH  
OMNIBUS OBJECTION TO CLAIMS (LATE-FILED CLAIMS)**

**CLAIM TO BE DISALLOWED & EXPUNGED**

Creditor Name and Address:  
BROOKS, DAVID J  
22 BARTLETT DR  
MANHASSET, NY 11030-2121

Claim Number: 34559  
Date Filed: 9/23/2009  
Debtor: No Debtor Asserted  
Classification and Amount: UNSECURED: \$259,911.00

PLEASE TAKE NOTICE that, on September 13, 2010, Lehman Brothers Holdings Inc. and certain of its affiliates (collectively, the "Debtors") filed their Fortieth Omnibus Objection to Claims (Late-Filed Claims) (the "Objection") with the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court").<sup>1</sup>

The Objection requests that the Bankruptcy Court expunge, reduce, reclassify, and/or disallow your claim(s) listed above under CLAIM(S) TO BE DISALLOWED & EXPUNGED on the ground that said claims(s) violate the Bankruptcy Court's July 2, 2009 order setting forth the procedures and deadlines for filing proofs of claim in these chapter 11 cases (the "Bar Date Order") [Docket No. 4271], as they were filed after the September 22, 2009 bar date. Any claim that the Bankruptcy Court expunges and disallows will be treated as if it had not been filed and you will not be entitled to any distribution on account thereof.

If you do NOT oppose the disallowance, expungement, reduction or reclassification of your claim(s) listed above under CLAIM(S) TO BE DISALLOWED & EXPUNGED, then you do NOT need to file a written response to the Objection and you do NOT need to appear at the hearing.

If you DO oppose the disallowance, expungement, reduction or reclassification of your claim(s) listed above under CLAIM(S) TO BE DISALLOWED & EXPUNGED, then you MUST file with the Court and serve on the parties listed below a

<sup>1</sup> A list of the Debtors, along with the last four digits of each Debtor's federal tax identification number, is available on the Debtors' website at <http://www.lehman-docket.com>.

written response to the Objection that is received on or before 4:00 p.m. Prevailing Eastern Time on October 18, 2010 (the "Response Deadline").

Your response, if any, must contain at a minimum the following: (i) a caption setting forth the name of the Bankruptcy Court, the names of the Debtors, the case number and the title of the Objection to which the response is directed; (ii) the name of the claimant and description of the basis for the amount of the claim; (iii) a concise statement setting forth the reasons why the claim should not be disallowed, expunged, reduced, or reclassified for the reasons set forth in the Objection, including, but not limited to, the specific factual and legal bases upon which you will rely in opposing the Objection; (iv) all documentation or other evidence of the claim, to the extent not included with the proof of claim previously filed with the Bankruptcy Court or provided to the Debtors in response to the Derivative Questionnaire and/or Guarantee Questionnaire (as defined in the order, dated July 2, 2009, establishing the deadline for filing proofs of claim, approving the form and manner of notice thereof and approving the proof of claim form [Docket No. 4271]), upon which you will rely in opposing the Objection; (v) the address(es) to which the Debtors must return any reply to your response, if different from that presented in the proof of claim; and (vi) the name, address, and telephone number of the person (which may be you or your legal representative) possessing ultimate authority to reconcile, settle, or otherwise resolve the claim on your behalf.

The Bankruptcy Court will consider a response only if the response is timely filed, served, and received. A response will be deemed timely filed, served, and received only if the original response is actually received on or before the Response Deadline by (i) the chambers of the Honorable James M. Peck, One Bowling Green, New York, New York 10004, Courtroom 601; (ii) attorneys for the Debtors, Weil Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Shai Waisman, Esq.); (iii) the Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21st Floor, New York, New York 10004 (Attn: Andy Velez-Rivera, Esq., Paul Schwartzberg, Esq., Brian Masumoto, Esq., Linda Riffkin, Esq., and Tracy Hope Davis, Esq.); and (iv) attorneys for the official committee of unsecured creditors appointed in these cases, Milbank, Tweed, Hadley & McCloy LLP, 1 Chase Manhattan Plaza, New York, New York 10005 (Attn: Dennis F. Dunne, Esq., Dennis O'Donnell, Esq., and Evan Fleck, Esq.).

A hearing will be held on October 27, 2010 to consider the Objection. The hearing will be held at 10:00 a.m. Prevailing Eastern Time in the United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York, New York 10004, Courtroom 601. If you file a written response to the Objection, you should plan to appear at the hearing. The Debtors, however, reserve the right to continue the hearing on the Objection with respect to your claim(s). If the Debtors do continue the hearing with respect to your claim(s), then the hearing will be held at a later date. If the Debtors do not continue the hearing with respect to your claim(s), then a hearing on the Objection will be conducted on the above date.

If the Bankruptcy Court does NOT disallow, expunge, reduce or reclassify your claim(s) listed above under CLAIM(S) TO BE DISALLOWED & EXPUNGED, then the Debtors have the right to object on other grounds to the claim(s) (or to any other claims you may have filed) at a later date. You will receive a separate notice of any such objections.

You may participate in a hearing telephonically provided that you comply with the Court's instructions (including, without limitation, providing prior written notice to counsel for the Debtors and any statutory committees), which can be found on the Court's website at [www.nysb.uscourts.gov](http://www.nysb.uscourts.gov).

If you wish to view the complete Objection, you can do so on the Court's electronic docket for the Debtors' chapter 11 cases, which is posted on the internet at [www.nysb.uscourts.gov](http://www.nysb.uscourts.gov) (a PACER login and password are required and can be obtained through the PACER Service Center at [www.pacer.psc.uscourts.gov](http://www.pacer.psc.uscourts.gov)), or for free at <http://www.lehman-docket.com>. If you would like to request a complete copy of the Objection at the Debtors' expense, please contact the Debtors' approved claims agent Epiq Bankruptcy Solutions, LLC toll-free at 1-866-879-0688.

If you have any questions about this notice or the Objection, please contact Debtors' counsel, John O'Connor, Esq., at 214-746-7700. CLAIMANTS SHOULD NOT CONTACT THE CLERK OF THE BANKRUPTCY COURT TO DISCUSS THE MERITS OF THEIR CLAIMS.

DATED: September 13, 2010  
New York, New York

WEIL, GOTSHAL & MANGES LLP  
767 Fifth Avenue  
New York, New York 10153  
(212) 310-8000  
Shai Y. Waisman  
ATTORNEYS FOR DEBTORS  
AND DEBTORS IN POSSESSION

**AFFIDAVIT OF SERVICE**

Kamani Singh affirms under penalty of perjury that:

1. I am over the age of eighteen years, not a party to this action, and an employee of the firm of Dewey Pegno & Kramarsky LLP, counsel for Claimant David J. Brooks.

2. On the 15<sup>th</sup> day of October 2010, I caused a copy of the foregoing **Declaration of David J. Brooks in Response to Debtors' Fortieth Omnibus Objection to Claims (Late-Filed Claims)** to be served on:

**BY HAND**

The Chambers of the Honorable James M. Peck  
Courtroom 601  
One Bowling Green  
New York, New York 10004

Shai Waisman, Esq.  
Weil Gotshal & Manges LLP  
767 Fifth Avenue  
New York, New York 10153

Andy Velez-Rivera, Esq.  
Paul Schwartzberg, Esq.  
Brian Masumoto, Esq.  
Linda Riffkin, Esq.  
Tracy Hope Davis, Esq.  
The Office of the United States Trustee for the Southern District of New York  
33 Whitehall Street, 21<sup>st</sup> Floor  
New York, New York 10004

Dennis F. Dunne, Esq.  
Dennis O'Donnell, Esq.  
Evan Fleck, Esq.  
Milbank, Tweed, Hadley & McCloy LLP  
1 Chase Manhattan Plaza  
New York, New York 10005

Dated: New York, New York  
October 15, 2010

  
Kamani Singh

Sworn to before me this  
15<sup>th</sup> day of October, 2010

  
Notary Public

MADELINE BARBOSA  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01BA6089858  
Qualified in Bronx County  
My Commission Expires March 31, 2011